THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.25974 OF 2002

BETWEEN:

Shaik Ali son of Shaik Abdul Khader

…Petitioner

Vs.

The Depot Manager, APSRTC, Nalgonda Depot and another

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO.25974 OF 2002

ORAL ORDER

The award dated.11-04-2000 in I.D.No.142 of 1999 of the Labour Court-II, Hyderabad is assailed in this writ petition by the workman-a conductor of the APSRTC. On 21-01-1989.

While the petitioner was conducting a bus bearing NO.7517 on the Miryalaguda Babusaipet route a check was exercised and on discerning irregularities, a departmental enquiry initiated. Six charges were framed alleging commission of serious misconduct including by violating the rule of "issue and start", issuing three tickets of Rs.1/- denomination without proper punching, keeping un-punched tickets in the specified denominations in hand without any reason, failing to cooperate with the checking officials during the course of a check and threatening the checking officials and using uncouth language as well as closing the tray numbers of all denominations up to check point without recording ticket issues. After a due process of enquiry by an order dated.02-11-1989 the petitioner was removed from service by the respondent. He preferred an appeal there against and during the pendency of appeal and more than seven(7) years after the date of the order of removal he lodged a claim under Section.2-A(2) of the Industrial Disputes Act,1947 which was initially numbered as I.D.No.246 of 1996 and thereafter re-numbered as I.D.No.142 of 1999. On behalf of the petitioner a memo was filed on 17-02-2000 admitting that the domestic enquiry was validly held and seeking passing of an

award under Section.11(2) of the Act.

The Labour Court assessed the findings in the domestic enquiry in respect of each charge and found that the conclusions in respect of charge Nos.1, 2, 4, and 5 are perverse and that charge No.3 is partly proved. The Labour Court found on an aspect of charge No.3 that the petitioner had punched three tickets of Rs.1/- denomination on sighting the checking officials, did not punch the tickets correctly and that the departmental inquiry had validly found him guilty of this aspect of charge No.3.

In conclusion and for the reason that the only allegation proved against the petitioner is that he had failed to punch three tickets of Rs.1/- denomination properly and was not seen to have committed the more serious cash ticketing irregularities, the Labour Court set aside the punishment of removal (in exercise of the plenitude of its jurisdiction under Section.11-A of the Act) having duly considered the gravity of the misconduct validly proved against the petitioner. The Labour Court ordered that the petitioner be reinstated to service but without back wages. Though the Labour Court failed to record elaborate reasons for denying back wages, it is apparent from the tenor and text of the award that belated lodging of the claim by the petitioner (seven years after the impugned order of removal) had substrated the court's discretion to deny back wages. Since the petitioner approached the Labour Court belatedly and was also found concurrently to be guilty of charge No.3, namely failing to properly punch three tickets of Rs.1/- denomination, in the considered view of this Court the order of Labour Court denying back wages to the petitioner is not perverse to an extent warranting interference under Section.226 of the Constitution.

There are no merits. The writ petition is accordingly dismissed. No order as to costs.

GODA RAGHURAM,J

26TH OCTOBER 2007
PVSN/TSNR